IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1347 OF 2005

Vithal Shankar Deshpande
res. of Ghordi,
Tal: Sangola,
Dist: Solapur ..Appellant
(Original Plaintiff)

versus

1. Mallappa Shivbasayya Hiremath
2. Babu Sadappa Mali,.
3. Tukaram Sadappa Mali,
4. Shankar Trimbak Deshpande,
   deceased by his heirs
   a) Vithal Shankar Deshpande
   b) Sou. Pratibha Vyankat Deshpande
   c) Sou. Shyamala Bindurao Desai
   d) Laxmibai w/o. Shankar Deshpande
5. Sou. Laxmibai w/o.Shankar Deshpande,
   deceased and her legal representatives
   are Plaintiffs and resp. Nos.4(b) and 4(c)

Nos.1 to 3 agriculturists of Balgaon,
Tal: Jath, District : Sangli
Nos.4b to 4c household duties,
4b r/o. Mangalvedhe
(Godhole Vada, Mali Galli,
Dist: Solapur. H.No.568,
Hajibhai Chowk, Navi Peth,
Daxin Kasba) ..Respondents
(Orig. Defendants)

Mr.L.S.Gaikwad for the Appellant

Mr.N.J.Patil for the Respondent

Coram : S.R.Sathe, J.
Dated : 17th Feb., 2006

JUDGMENT

1. Heard both the learned advocates.

2. Perused the papers. Appellant, the original plaintiff has filed the present Second Appeal against the judgment and order passed by the District Judge, Sangli, in Regular Civil Appeal No.175 of 1988 whereby the order was passed by the learned Trial Judge dismissing the plaintiff’s suit for possession.

3. It was the case of plaintiff that the defendant Nos.4 and 5 are his father and mother respectively. All of them own the joint family property bearing Survey No.28 situated at Balgaon, Taluka Jat. The defendant No.4 effected partition of the said joint family property and partition deed was executed on 31.5.1958. In that partition the suit property was allotted to plaintiff’s share. As at the relevant time the plaintiff was minor, defendant No.4 was shown as his guardian. All along plaintiff’s father remained in actual possession of the said property. In fact prior to partition, defendant No.4 had given this property to defendant No.5 for her maintenance. Accordingly partition was effected. However, the defendant No.4 sold the said property to defendant Nos.1 to 3 and sale deeds were

executed on 17.4.1964. According to plaintiff he came to know about the said sale deeds in 1981. He, therefore, filed present suit for possession.

4. The defendants resisted the suit claim. The defendants 1 to 3 claim that they are bonafide purchasers for value without notice and the plaintiffs suit is barred by law of limitation. Besides this, they raised several other contentions.

5. After considering the evidence adduced by both the parties, the learned trial Judge held that the suit is barred by law of limitation and dismissed the same.

6. Plaintiff preferred regular Civil Appeal, but the same also came to be dismissed mainly on the ground of limitation.

7. Plaintiff has challenged the said order passed by the First Appellate Court in this Second Appeal. Admittedly, plaintiff had issued notice to defendants in the year 1964. The said notice was produced by the plaintiff. From the said notice it is evident that plaintiff had knowledge about the sale deeds in the year 1964. Even then he kept mum

till the year 1981. Both the courts below therefore rightly held that Article 65 of Limitation Act is applicable and the suit is not in time. No substantial question of law in involved in this matter. Nothing has been brought to my notice to show that the First Appellate Court has failed to consider any particular evidence of legal aspect. Thus, no substantial question of law is involved in the matter. Hence, appeal is dismissed in limine.

(S.R.Sathe, J.)